

JS-6

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GLADIS HERRERA, an individual  
and as successor in interest to Jose Raul  
Herrera; IVAN HERRERA, an  
individual and as successor in interest  
to Jose Raul Herrera; and MARLON  
HERRERA an individual and as  
successor in interest to Jose Raul  
Herrera,

Plaintiffs,

v.

CITY OF ONTARIO, a municipality;  
and DOES 1-10, inclusive,

Defendants.

Case No. 5:15-CV-1370 JGB (SPx)  
Hon. Jesus G. Bernal

FINAL JUDGMENT

**Trial Date: November 1, 2016**

1 This action came on regularly for trial on November 1, 2016 in Courtroom 1  
2 of the United States District Court, Central District of California, Honorable Jesus  
3 G. Bernal, presiding. Plaintiffs, Gladis Herrera, Marlon Herrera and Ivan Herrera  
4 were represented by attorney Dale K. Galipo and Melanie T. Partow of the Law  
5 Offices of Dale K. Galipo. Defendants City of Ontario and Nick Diaz were  
6 represented by Dennis M. Cota and Daniel S. Roberts Cota Cole, LLP.

7 A jury of eight persons was regularly empaneled and sworn. Witnesses were  
8 sworn and testified. After hearing the evidence and arguments of counsel, the jury  
9 was duly instructed by the Court and the case was submitted to the jury. The jury  
10 deliberated and thereafter returned a verdict as follows:

11 **QUESTION 1:**

12 Did Officer Diaz use excessive or unreasonable force against Jose Herrera?

13 \_\_\_\_\_ YES \_\_\_\_\_X\_\_\_\_\_ NO  
14

15  
16 **QUESTION 2:**

17 Was the use of excessive or unreasonable force by Officer Diaz a cause of  
18 harm or death to Jose Herrera?

19  
20 \_\_\_\_\_ YES \_\_\_\_\_ NO  
21

22 **QUESTION 3:**

23 What are Jose Herrera's damages for his loss of life, loss of enjoyment of life  
24 and for his pre-death pain and suffering?

25  
26 Jose Raul Herrera \_\_\_\_\_  
27  
28

**QUESTION 4:**

Was Officer Diaz negligent in his conduct towards Jose Herrera?

    X     YES                      NO

**QUESTION 5:**

Was the negligence of Officer Diaz a cause of Jose Herrera's death?

    X     YES                      NO

**QUESTION 6:**

Was Jose Herrera negligent?

    X     YES                      NO

**QUESTION 7:**

Was Jose Herrera's negligence a cause of his death?

    X     YES                      NO

**QUESTION 8:**

Assuming that 100% represents the total negligence of all individuals, what percentage of negligence do you assign to Mr. Herrera, which you believe caused Mr. Herrera's death?

    55     %

**QUESTION 9:**

Did Ivan and/or Marlon suffer serious emotional distress as a result of perceiving the use of force against Jose Herrera?

Marlon Herrera         X    YES                           NO

Ivan Herrera         X    YES                           NO

**QUESTION 10:**

What are Ivan and/or Marlon Herrera's damages for past and future severe emotional distress that they suffered as a result of perceiving the death of Jose Herrera?

Marlon Herrera      \$    100,000   

Ivan Herrera      \$    100,000   

**QUESTION 11:**

What are Plaintiffs' damages for their past and future loss of Jose Herrera's love, companionship, comfort, care, assistance, protection, affection, society and moral support?

**A. Gladis Herrera**

Gladis Herrera: Past and future loss of Jose Herrera's love, companionship, comfort, care, assistance, protection, affection, society, moral support and marital consortium.

\$    300,000

1 Gladis Herrera's past and future loss of financial  
2 support:

\$ \_\_ 400,000 \_\_

3  
4 B. Marlon Herrera

5 Marlon Herrera's past and future loss of Jose  
6 Herrera's love, companionship, comfort, care,  
7 assistance, protection, affection, society and moral  
8 support.

\$ \_\_ 150,000 \_\_

9  
10 C. Ivan Herrera

11 Ivan Herrera's past and future loss of Jose  
12 Herrera's love, companionship, comfort, care,  
13 assistance, protection, affection, society and moral  
14 support.

\$ \_\_ 150,000 \_\_

15  
16 NOW THEREFORE IT IS ORDERED, ADJUDGED AND DECREED that  
17 final judgment in this action be entered as follows:

18 1. Judgment in the sum of \$540,000 plus costs pursuant to Federal Rule  
19 of Civil Procedure 54(d)(1), plus interest on \$202,500 at the rate specified  
20 provided by 28 U.S.C. § 1961, is entered against Defendant Nick Diaz and the City  
21 of Ontario in favor of Plaintiffs Gladis Herrera, Marlon Herrera and Ivan Herrera.  
22

23 IT IS SO ORDERED.

24 Dated: June 28, 2017

25  
26   
27 Jesus G. Bernal  
28 UNITED STATES DISTRICT JUDGE